

**KRONENBERGER BURGOYNE, LLP**  
Karl S. Kronenberger (Cal. Bar No. 226112)  
Jeffrey M. Rosenfeld (Cal. Bar No. 222187)  
150 Post Street, Suite 520  
San Francisco, CA 94108  
Telephone: (415) 955-1155  
Facsimile: (415) 955-1158  
karl@KBInternetLaw.com  
jeff@KBInternetLaw.com

Attorneys for Plaintiff Digby Adler Group LLC  
*dba* Bandago

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**DIGBY ADLER GROUP LLC *DBA*  
BANDAGO,**

Plaintiff,

**vs.**

**IMAGE RENT A CAR, INC., *et al.***

Defendants.

Case No. 3:10-cv-00617-SC

**PLAINTIFF DIGBY ADLER GROUP  
LLC'S NOTICE OF DEFENDANTS  
IMAGE RENT A CAR, INC. AND VAN  
RENTAL CO.'S FILINGS OF  
BANKRUPTCY PETITIONS**

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150 Post Street, Suite 520  
San Francisco, CA 94108  
www.KBInternetLaw.com

1 TO THE COURT, THE PARTIES, AND ALL COUNSEL OF RECORD:

2 Plaintiff Digby Adler Group LLC d/b/a Bandago hereby provides notice that  
3 Defendants Image Rent A Car, Inc. ("Image") and Van Rental Co. ("Van") have each filed  
4 petitions for bankruptcy protection in the United States Bankruptcy Court for the Eastern  
5 District of New York:

- 6 • *In Re Image Rent A Car, Inc.*, No. 1:11-bk-42390 (E.D.N.Y. filed March 24, 2011);
- 7 • *In Re Van Rental Co.*, 1:11-bk-42391 (E.D.N.Y. filed March 24, 2011).

8 While under 11 U.S.C. §362 Image and Van's filings operate as an automatic stay  
9 of this action as to Image and Van, the stay does not apply to co-Defendants Shneior  
10 Zilberman ("Zilberman") and Gad Sebag ("Sebag"). Absent exceptional circumstances,  
11 the automatic stay of §362 does not apply to third-party defendants or co-defendants. *In*  
12 *re Metro. Mortg. & Sec. Co., Inc.*, 325 B.R. 851, 856 (Bankr. E.D. Wash. 2005); *In re*  
13 *Related Asbestos Cases*, 23 B.R. 523, *passim* (N.D. Cal. 1982); *Willett v. Vitek, Inc.*, 139  
14 B.R. 723, 726 (D. Nev. 1992); *Fed. Land Bank of Spokane v. Stiles*, 700 F. Supp. 1060,  
15 1062-63 (D. Mont. 1988). Moreover, to the extent Zilberman and Sebag wish to argue  
16 that exceptional circumstances warrant extending the stay to cover them, they must file  
17 an adversary proceeding to achieve the result under 11 U.S.C. §§105 and 362. *See In*  
18 *re All Seasons Resorts, Inc.*, 79 B.R. 901, 903 (Bankr. C.D. Cal. 1987).

19 Thus, unless instructed otherwise by the Court, Plaintiff will stay its prosecution of  
20 this action against Image and Van, and will treat its claims against Zilberman and Sebag  
21 as severed and proceed accordingly.

22  
23 Respectfully submitted,

24 DATED: April 7, 2011

KRONENBERGER BURGOYNE, LLP

25  
26 By:   
27 Jeffrey M. Rosenfeld

28 Attorneys for Plaintiff Digby Adler Group LLC  
dba Bandago